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The Honorable Board of Supervisors
 County of Los Angeles
 383 Kenneth Hahn Hall of Administration
 500 West Temple Street
 Los Angeles, California 90012

Dear Supervisors:

**SETTLEMENT OF CLAIMS FOR REMEDIATION COSTS
 AT THE POINT VICENTE INTERPRETATIVE CENTER
 (FOURTH) (4 VOTES)**

**JOINT RECOMMENDATION WITH THE CHIEF ADMINISTRATIVE OFFICER THAT
 YOUR BOARD:**

1. Find that the County has no present or future need for the properties known as the Point Vicente Interpretative Center and the Point Vicente Fishing Access, which are identified in the enclosed legal descriptions and maps;
2. Find that the proposed conveyance of these surplus properties is categorically exempt under the California Environmental Quality Act ("CEQA");
3. Authorize payment of \$75,000 and conveyance of title to the Point Vicente Interpretative Center and to the Point Vicente Fishing Access to the City of Rancho Palos Verdes ("RPV") pursuant to Government Code section 25365 to settle the claim filed by RPV for contribution to lead remediation costs at the Point Vicente Interpretive Center site and authorize the County Counsel's office to execute a settlement agreement in substantially the form enclosed;
4. Instruct the Chair to execute Quitclaim Deeds for the involved properties, approved as to form by County Counsel, upon presentation by the Chief Administrative Office;

5. Authorize the Chief Administrative Office to take all further actions and execute all other necessary documents to complete the transfer of title upon approval of the documents by County Counsel; and
6. Authorize the Auditor-Controller to issue a warrant in the amount of \$75,000 payable to RPV from the Judgments and Damages Budget.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended actions is to settle claims filed against the County by RPV for alleged damages arising from disposal of lead contaminated soil excavated from the Point Vicente Interpretative Center ("PVIC"). The PVIC is owned by the County and leased to RPV. The recommended settlement involves both the payment of \$75,000 and the transfer of title to PVIC and the nearby Point Vicente Fishing Access ("Fishing Access") to RPV.

Prior to the discovery of lead contamination at PVIC, RPV had requested that the County transfer title to both of these properties to RPV to operate and maintain them as public park and recreational facilities under local control and responsibility. The Chief Administrative Office did not have the opportunity to follow through on the request due to the contamination issues which arose. The proposed settlement will afford an opportunity to complete these contemplated property transfers as well as resolve any monetary claims RPV has against the County relating to lead contamination at PVIC.

Your Board's approval of this proposed settlement will provide a comprehensive and conclusive termination of RPV's outstanding and potential future claims concerning the lead contamination at PVIC. The proposed settlement provides that RPV will indemnify the County against any potential liability related to contaminated soil excavated from PVIC, including any potential liability related to the disposal of the lead contaminated soil from PVIC at a local landfill called Chandler's Landfill, Inc. ("Chandler's"). The Fishing Access property is being transferred "as is." There is no known contamination at the Fishing Access property.

The City Council and Mayor of RPV have approved the essential terms of the proposed settlement as described herein.

Implementation of Strategic Plan Goals

The settlement of this claim is consistent with the County Strategic Plan Goal of Fiscal Responsibility, since it resolves potential litigation in a manner which is cost effective and favorable to the County.

FISCAL IMPACT/FINANCING

The Chief Administrative Office has identified funding in the current Judgments and Damages Budget for the proposed payment of the \$75,000. There is no current or ongoing fiscal impact from the conveyance of PVIC to the RPV, since RPV is currently

responsible for all operating and maintenance expenses at PVIC pursuant to its long-term gratis lease with the County which expires in 2030. The conveyance of the Fishing Access property will save the County approximately \$4,000 in average annual operating and maintenance costs.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

PVIC is a whale watching and marine life interpretive center on approximately 27.48 acres (Assessor Parcel Number 7573-002-904) overlooking the Pacific Ocean at Point Vicente and is located at 31200 Palos Verdes Drive in RPV. The PVIC property consists of two parking lots for approximately 73 vehicles, an interpretative center building (approximately 5,000 square feet), native plant landscaping, irrigation systems, and unpaved pathways. The appraised fair market value of PVIC was \$3,460,000 as of October 1, 2001.

The PVIC property was formerly used as a small arms firing range as a part of a Nike missile battery owned by the Department of Defense ("DOD") which declared the property surplus in the late 1970s. In 1978, the County acquired title to the PVIC from the United States Department of the Interior at no cost for public park and recreational use. In 1979, RPV entered into a 50-year lease with the County for the purpose of developing, operating, and maintaining a public park and interpretative center at that location. The lease contains a "hold harmless" clause whereby RPV agreed to hold the County harmless from any liability which resulted from the development of the property so long as there was no concurrent negligence on the part of the County.

The Fishing Access property (Assessor Parcel Number 7573-002-902) consists of approximately 10.53 acres of land located at 31300 Palos Verdes Drive South in RPV. The Fishing Access property was acquired at no cost from the General Services Administration of the federal government by the County in approximately 1957. The property was donated to the County with a limited deed restriction requiring that the property be used for recreational purposes for 20 years. The County has continued to use the property for recreational purposes and intends to deed restrict the property to provide for recreational use in perpetuity. The Fishing Access property consists of a paved parking lot for 47 vehicles, a restroom facility, and an unpaved pathway providing public access to the ocean surf. This property had an appraised fair market value of \$1,654,000 as of October 1, 2001.

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In 1999, RPV prepared and submitted construction plans for expansion of the PVIC building, along with a Mitigated Negative Declaration prepared pursuant to CEQA, to the

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Department of Beaches and Harbors. The plans were reviewed by the Department of

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s and Harbors as administrator of the County's interest in the property.

After construction commenced, soil excavated for foundations was taken to a construction site in San Pedro for use as fill material, and the balance was taken to Chandler's, an inert material landfill in the City of Rolling Hills Estates which is prohibited from accepting hazardous materials.

Routine testing of the soil taken to the San Pedro site revealed lead contamination. As a result, RPV returned the soil taken to the San Pedro site to PVIC and stockpiled it in the parking lot pending further characterization to determine the appropriate method of disposal. RPV was required to prepare a remedial work plan under the regulatory oversight of the Regional Water Quality Control Board ("RWQCB") to address the soil stockpiled in the parking lot, the soil disposed of at Chandler's, and lead remaining in the ground at the PVIC. RPV was ultimately able to obtain the assistance of the DOD in funding the cost of cleaning up the remaining in-place contamination at PVIC. The RWQCB required RPV to locate, excavate, and properly dispose of the contaminated soil deposited at Chandler's.

RPV filed a claim against the County for \$1.1 million to recover costs it spent to characterize and properly dispose of the excavated contaminated soil and for the costs expended to fully characterize the extent of contamination at the PVIC site.

Under federal law, as the owner of the property, the County is potentially liable for a portion of the cost to remediate the lead contaminated soil excavated at PVIC. The County's role in reviewing the development proposal prior to the commencement of the construction of the project raises an issue concerning whether the hold harmless clause in the County's lease of the PVIC to RPV can be relied upon to completely absolve the County of liability for the remedial costs.

The conveyance of these properties to RPV is authorized by section 25365 of the Government Code, which authorizes transfers of surplus properties to other public entities. Notice of your Board's intended action has been published in accordance with section 25365. The County's acquisition of the PVIC property and the proposed conveyance to RPV is subject to a deed restriction limiting the use of the property for public park and recreational purposes in perpetuity. The Fishing Access property is proposed to be transferred with a similar deed restriction ensuring continued public access to the coast at the site. Each deed restriction will provide that the properties will be equally open and available to all residents of Los Angeles County and that there shall be no discrimination

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against or preference, gratuity, bonus, or other benefit given to residents of any particular area, community, neighborhood, incorporated city or unincorporated territory.

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these properties as public recreational facilities, title will immediately revert to the County without the necessity of any affirmative action. The transfer of these two properties does not violate the Parks Preservation Act since they will remain dedicated to recreational use.

ENVIRONMENTAL DOCUMENTATION

The proposed transfer of the two surplus properties is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines section 15312 and Appendix G, Class 12 of your Board's Environmental Document Reporting Procedures and Guidelines. The properties do not have significant values for habitat or other environmental purposes since they are already developed with structures and parking lots. The properties have been used for recreational purposes since acquired by the County.

IMPACT OF CURRENT SERVICES

The proposed settlement and property transfers should not impact current services as RPV will continue to be required to operate and maintain the properties for public park purposes.

CONCLUSION

The proposed settlement of this matter is fair to all parties and is in the County's best interest.

Respectfully submitted,

LLOYD W. PELLMAN
County Counsel

DAVID E. JANSSEN
Chief Administrative Officer

LWP/DEJ/PJG
Enclosures

c: Violet Varona-Lukens, Executive Officer
Board of Supervisors

J. Tyler McCauley
Auditor-Controller

Stan Wisniewski, Director
Department of Beaches and Harbors

James E. Hartl, Director
Department of Regional Planning